

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.24424 OF 2005

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Dated: 15-11-2005

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Between

Kishan Nailk, S/o. Ramji, Chairman, Shivareddypet, Vikarabad Primary Agricultural Co-operative Credit society, Vikarabad, Ranga Reddy District.

...PETITIONER

AND

Election Officer, The District Co-operative Marketing Society Limited, Ranga Reddy District, 10-02-347, Humayunagar P.O., Hyderabad and others.

...RESPONDETS

ORDER:

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This writ petition is filed seeking a Writ of Mandamus to declare the action of the first and second respondents in not invalidating the nomination of the eighth respondent who is a non-member and

co-opted Chairman of Haridaspalli Primary Agricultural Cooperative Credit Society for the purpose of election to the Directorship of the 6th and 7th respondents is concerned as illegal and arbitrary and consequently direct the respondents 1 and 2 to declare that the petitioner is elected unanimously as a Director of respondents 6 and 7 insofar as the reserved category of Scheduled Tribe is concerned.

It is the case of the petitioner that he is the only scheduled tribe candidate chosen as the President/Chairman of the Managing Committee of M/s. Shivareddypet Primary Agricultural Cooperative Credit Society and he alone is entitled to contest or to be declared as Director of the 6th and 7th respondents District Level Co-operative Societies. The grievance of the petitioner is that when one

Mr. P. Rajender Reddy, the elected Chairman of the Haridaspalli Cooperative Credit Society, resigned in his place the 8th respondent was nominated as a Managing Committee Member of the society and thereafter he was nominated as Chairman of the said society.

It is stated that there cannot be any distinction between the elected President and the nominated President and the petitioner being the elected Chairman he was only entitled to be declared as the sole candidate available for the reserved Scheduled Tribe category.

As per G.O.Ms.Nos.223 and 324, Agriculture and Cooperation (Co-op.IV) Department dated 27.06.2005 and 29.07.2005 respectively the amended Rule 22(5)(a) of the Andhra Pradesh Co-operative Societies Rules, 1964 (for short 'the Rules') states that where in any society no member belonging to a category of weaker sections and women was elected to the seat reserved for that category the Election Officer shall arrange by persons elected as members of the committee for co-option before election of the office bearers of the committee, an eligible member of the society belonging to the same category.

Admittedly in the instant case there is no dispute that the

8th respondent was co-opted firstly as member of the said society and thereafter he was also co-opted as Chairman by all the elected members of the said society. Under Rule 22(5)(b) of the Rules any vacancy that may arise due to non-filing of nominations or any casual vacancy that may arise during the term of office, shall be filled up by co-option by the member of the committee. In the instant case as the casual vacancy arose to the Chairmanship of the Haridaspalli Primary Agricultural Co-operative Credit Society, the 8th respondent was

co-opted by the members of the said society. Therefore, there cannot be any difference between the Chairman elected from out of the contest or a person who was nominated for the post of Chairman either by election or by co-option. Both of them shall have the same rights and therefore, the petitioner cannot have any preferential claim disentitling the 8th respondent to be chosen as Director of the respondents 6 and 7. Therefore, I do not see

any illegality in the

8th respondent's name figuring in the voter's list related to Scheduled Tribe for election to the Directors of the 6th and 7th respondents.

The writ petition is accordingly dismissed. However, it is open for the petitioner to file an election petition after the elections are conducted and if any such election petition is filed the Election Tribunal shall consider and dispose of the same without being influenced by any of the observations made in this writ petition.

V. ESWARAIAH, J

November 15, 2005

DSK